

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 232

CRR-2669-2016

Decided on : 22.02.2017

Pala Ram

..... Petitioner(s)

VERSUS

The State of Haryana

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Chanan Singh, Advocate, for the petitioner(s).

Mr. Manish Bansal, DAG, Haryana.

DEEPAK SIBAL, J. (ORAL)

The present petition has been filed under Sections 397 and 401 Cr. P. C. read with Section 482 Cr. P. C., challenging therein the order dated 04.07.2016, passed by the Additional Sessions Judge, Kurukshetra, declining the prayer made by the petitioner for the release of his vehicle bearing No. HR-05-AN-8138.

On registration of FIR No. 171, dated 06.04.2016, under the NDPS Act against the petitioner, his car bearing No. HR-05-AN-8138 was seized and taken into possession by the police. The same lies in the custody of the police since then. During the pendency of the trial, seeking interim release of the above-said vehicle, the petitioner moved an application before the trial court which through the impugned order was dismissed giving a cause to the petitioner to approach this Court through the present petition.

At the very outset, learned State counsel very fairly states that the present petition deserves to be allowed in terms of the law laid down by a Division Bench of this Court in "*Gurbinder Singh @ Shinder vs. State of Punjab*", 2016(4) Law Herald (P&H) 3095 (DB), wherein it has been held as

under: -

“21. In the above facts and circumstances, we have no hesitation to hold that there is no provision under the NDPS Act debarring the release of the vehicle for interim custody. The provision under Section 451 Cr.P.C. which is found not inconsistent with the provisions of the NDPS Act is applicable to the vehicle seized under the NDPS Act as well. No differential treatment to the vehicle seized under the NDPS Act is contemplated either under the provisions of the NDPS Act or under the ratio laid down by the Court of law. In our considered view, the law laid down by the Hon'ble Supreme Court in Sunderbhai Ambalal Desai's case (supra) will apply to the vehicles seized under the NDPS Act as well. Any contrary view taken by the Courts of law would be against the interest of the owner of the vehicles, the public at large and the State.

22. In the above facts and circumstances, we hold that the vehicle used for transporting the narcotic drugs and psychotropic substances can also be released on sapurdari invoking the provision under Section 451 Cr.P.C. The reference is answered accordingly.”

In view of the above, the present petition is allowed and it is directed that vehicle bearing No. HR-05-AN-8138 allegedly used in the commission of offence under the NDPS Act be released on supardari on such terms & conditions as deemed appropriate by the trial court.

22.02.2017
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No